

### **REMARKS**

Reconsideration is respectfully requested. Claims 13, 17, and 26 have been amended. Claims 14-16, 18-25, and 27-33 have been reiterated. Claim 34 has been added. Claims 1-12 were previously cancelled. Claims 13-34 are pending.

The amendments herein only clarify the subject matter of the present invention and are not made for purposes of patentability. No subject matter has been disclaimed, and the amendment of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

No new matter has been added. Applicants expressly reserve the right to pursue identical or similar claims in other patent applications that are identical or similar to the claims amended or canceled in this response.

### **Examiner Interview**

Applicants respectfully thank the Examiner for the interview of February 19, 2004, in which the election of species requirement was discussed.

### **Election of Species**

The Examiner states that the timely submission under 37 CFR 1.129(a) filed on November 3, 2003 was not fully responsive to the prior Office Action. The Examiner states that the Applicant elected subgenera instead of a single discloses species.

Applicants hereby provisionally elect a species according to the formula X-Y-Z where:

- X is an antiproliferative drug,
- Y includes about 24 atoms in the chain, wherein each of said atoms is independently selected from the group consisting of oxygen, nitrogen, and carbon atoms, and
- Z is a maleimide group.

As discussed in the Examiner interview, an antiproliferative drug is a species of the generic "therapeutic entity" disclosed in the present patent application.

Claim 34 currently reads on the elected species. Support for antiproliferative drugs may be found at page 16, line 14 of the Specification, and support for targeting neoplastic cells is given on page 13, line 11. Support for a linking entity Y that includes about 24 atoms in the chain, wherein each of said atoms is independently selected from the group consisting of oxygen, nitrogen, and carbon atoms, may be found at page 5, line 29 through page 6, line 6 of the Specification. Support for maleimide reactive groups may be found at page 5, lines 18 and 21 of the Specification.

Applicant's election is made without prejudice. Applicants acknowledge that upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

Applicant expressly reserves his/her right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

### **Conclusion**

Applicant requests examination of the elected subject matter on the merits.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.



Application No.: 09/921,663

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Docket No.: 500862000105

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 500862000105. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: March 18, 2004

Respectfully submitted,

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